Children in the out-of-home care system

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Child protection inquiries and reform processes of various types are a very frequent occurrence in Australia and other common law countries. Over the past decade or so, there have been at least 18 state-based inquiries into the operation of the statutory child protection systems, and several national inquiries concerning the care and protection of children, with some inquiring into policies and practices going back fifty years or more (Australian Institute of Health and Welfare [AIHW], 2013; Irenyi, Bromfield, Beyer, & Higgins, 2006; Kenny, Higgins, Soloff, & Sweid, 2012). These include the major national inquiries concerning the Stolen Generations, the Forgotten Australians, and Forced Adoptions. These inquiries concerned the widespread removal of Aboriginal and Torres Strait Islander children from their families and communities by state and church-related missions and agencies; the estimated 500,000 non-Indigenous children, child migrants and Indigenous children who spent some or most of their childhood years in institutions or “homes”; and the estimated over 210,000 infants and children who were adopted with their mother having little or no choice. The most recent and ongoing inquiry, established in early 2013, is the Royal Commission into Institutional Responses to Child Sexual Abuse. The focus of this inquiry is on “how institutions with a responsibility for children have managed and responded to allegations and instances of child sexual abuse”. The target institutions include “any private, public or non-government organisation that is, or was in the past, involved with children, including government agencies, schools, sporting clubs, orphanages, foster care, and religious organisations” (Royal Commission into Institutional Responses to Child Sexual Abuse, 2013).

While the Commonwealth Government is assuming increased responsibility for a national approach to children and young people,1 the states and territories in Australia

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1 For example, the Council of Australian Governments (COAG), has developed and is implementing a National Framework for Protecting Australia’s Children, which aims to deliver a more integrated response linking supports and services across jurisdictions, thus “avoiding duplication, coordinating planning and implementation and better sharing of information and innovation” (COAG, 2009, p. 9).
carry the primary responsibility and power to make laws and decisions about the care and protection of children (previously referred to as “child welfare”). Despite some jurisdictional differences in legislation and implementation, the systemic issues are very similar. There are, for example, similar concerns in each of the recent state-based inquiries and reform proposals concerning the child protection and out-of-home care systems in NSW, Victoria, and Queensland. The primary concerns are twofold: preventing and intervening early in families where children are being subjected to “significant” harm as a result of child abuse and neglect, and providing the best stable care for the increasing numbers of children who cannot remain living safely with their parents. The focus of this chapter is on children in out-of-home care.

The number of children in out-of-home care has been increasing at a steady rate over the last 15 to 20 years, and has almost trebled from just over 14,000 in 1997 to 39,621 in 2011–12 (AIHW, 2013). Only a small proportion of children for whom there are substantiated concerns about child abuse or neglect are found to be “in need of care and protection”, necessitating a court order; even fewer are removed from their homes or have parental responsibility (sometimes known as guardianship) transferred from their parents. This is the most serious form of intervention the state can take and is increasingly a measure of last resort.

For some children who enter care, their stay in care is short-lived and intended to be so. For example, about 43% of the children entering care across Australia during the year 2011–12 were under the age of five years, but only 23% of those in out-of-home care as at 30 June 2012 were under five. About a quarter of the children leaving out-of-home care during that year were under five years of age. This is in line with the principle that children should, so far as possible, remain within their families and return to their families as soon as circumstances have changed to allow them to return safely and be cared for adequately. This is also consistent with the UN Convention on the Rights of the Child.

When children enter out-of-home care, they are most likely to be placed with a relative or a member of their kinship group (47% across Australia, with a high of 56% in NSW) or in foster care (44% across Australia). Relative care means that children live with a member of their family (often a grandparent, aunt/uncle or older sibling) or, particularly for Aboriginal children, another person in their kinship group. Aboriginal and Torres Strait Islander children are heavily over-represented in out-of-home care, at ten times the rate for non-Indigenous children across Australia. Foster care means that the child is living with “foster parent(s) who receive a foster care allowance from a government or non-government organisation for the care of a child (excluding children in family group homes)” (AIHW, 2013, p. 125). Despite the Aboriginal placement principle and the preference for Aboriginal children to be placed with kin and, if kinship carers are not available with Aboriginal carers, about a third of Indigenous children are not placed with Indigenous carers (AIHW, 2013).

The number of children placed with relatives has increased markedly in Australia over the last few decades for several reasons. Relative or kinship care fits with the importance of children maintaining connections with their families. It is also cost-effective and practical because there is a shortage of foster carers, making it difficult to find suitable placements for children in need of care. It also has particular advantages for Indigenous children and is consistent with traditional practices of caring for children within their kinship groups. While there are benefits for children living with relatives, there are also concerns that relative carers are not always properly assessed for their capacity
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to look after the children or given adequate support to help them do so (Winokur, Holtan, & Valentine, 2009). Many relative carers, especially in Aboriginal communities, are grandmothers who are older, single and not well off, and are often called on to care for young children with little financial and practical support.

Few children in out-of-home care in Australia now live in residential care, apart from children with serious disabilities, in marked contrast with the period up to the 1970s. In 1961, for example, the figure was close to 46% (Scott, 2006). By comparison, in 2012, only 6% of children and young people in out-of-home care across Australia and 3% in NSW were in group homes or residential care. This is somewhat lower than in other countries such as England (12% in 2012; Department for Education, 2012) and the United States (15% in 2011; US Children’s Bureau, 2012). The strong shift from residential care to family-based placements such as foster and relative care in the 1970s and 1980s occurred across the Western world. This was a result of the increasing cost, the recognition of children’s needs for family-type relationships, and the exposure of abuse and neglect in many institutions and children’s homes—as powerfully depicted in the Stolen Generations and the Forgotten Australians inquiries in Australia, and in England in the 1997 Utting report (see also Berridge, Biehal, & Henry, 2012).

Where it is decided that there is no prospect that children can return to live with their parents, and living with a relative within their extended family or kinship group is not a realistic option, the aim is to place children in a permanent “home” or placement; hopefully, though not often enough, with a family that can become a “family for life”. A significant number of children and young people remain in care until they are 18; they “age out of care” when they become adults at age 18.

**What are the outcomes for children in out-of-home care?**

Children in care face a number of difficulties arising from the circumstances and inadequate care that led them to being removed from their parents, as well as the aftermath and emotional effects of being separated from their parents and family. For some children, their time in out-of-home care is spent in a long-term stable placement, and this may become “home” for them. A number of children who feel safe and secure in their foster home or with relatives do quite well in care, but a considerable number who experience a series of “broken” placements— involving numerous workers; changes of school; and little contact with their parents, siblings and other relatives— do much less well (Barber & Delfabbro, 2003; Cashmore, 2014; Cashmore & Paxman, 2006).

Understanding children’s experiences in different types of out-of-home care and the factors that lead to better and to poorer outcomes is critical to developing better policies and practices. A large-scale longitudinal study in NSW of children entering out-of-home care for the first time on orders, Pathways of Care, and another in Victoria on young people leaving care, Beyond 18, are both very important studies and will fill a gap in Australian research on the outcomes for children in care and beyond. Of crucial importance, both studies include the views of children and young people and their direct reported experience of what life is like for them “in care”.

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Leaving care

The risks for children and young people in out-of-home care continue beyond childhood and their time in care. Young people who may have had little continuity or stability in out-of-home care are often discharged from care at the age of 16 or 18, with little financial or social support, and with poor prospects for employment or good stable accommodation. By contrast, young people in the general population living with their parents now often remain at home until they are in their mid-20s, and they may leave and return several times before they finally live independently. While increasingly parents are expected to be responsible for their children’s post-secondary education fees and living expenses into their twenties, there is minimal support from governments to similarly assist the young people for whom the state has assumed guardianship to make their transition to independent adulthood. Young people leaving care as a group have low levels of educational attainment and high rates of unemployment, mobility, homelessness, financial difficulty, loneliness and physical and mental health problems.

A small-scale longitudinal study of young people leaving care in NSW found that young people who had spent at least three-quarters of their time in care in one long-term placement were better off than those who had not, even if they were not living in that placement when they left care (Cashmore & Paxman, 2006). This group attended fewer schools, were happier, were more likely to have completed at least Year 10 at school, to report being able to “make ends meet”, to be satisfied with what the department had done for them, and were less likely to say they missed out on affection and “things other kids had”, or to have thought about or attempted suicide. Young people who indicated that they had felt secure and that they were loved while they were in care were also doing significantly better five years after leaving care than those who had never felt there was someone who loved and cared about them. Young people who reported that they could call upon a range of other people (family members, former carers and other networks) for social and emotional support, and financial support, were faring significantly better four to five years after leaving care than those whose level of perceived support was less. This was also related to the level of “felt security” in care; young people who had felt more secure in care also felt they had more supports available to them after leaving care.

Adoption

A major challenge is how to ensure that children who cannot live safely with their parents or with other family members or kin have stable, permanent and caring living arrangements with a “family for life”. In countries such as the UK and US, adoption is encouraged as the preferred option for children who cannot return home, with the use of adoption targets and financial incentives for local authorities in the UK and the states in the US. In Australia, adoption by carers is much less common, though NSW and other state governments are considering ways to encourage the use of adoption for children in out-of-home care. Only 70 children across Australia were adopted by their carers in the year 2011–12, a tiny proportion of the 39,621 children in out-of-home care at 30 June 2012.

There are several possible explanations for the very low adoption rate for children from care in Australia. First, severing legal ties with the biological family is seen as inappropriate, given the lessons from past adoption practices, especially within Indigenous communities and their history with the Stolen Generations. Adoption is therefore not seen as an appropriate option for Indigenous children, who comprise
about a third (34%) of the children in care, nor for children in the care of relatives or kin (47%). Secondly, the adoption process is quite complex and it takes considerable time and skills for workers to take it through the Supreme Court, especially if the parents are not contactable or not willing or able to give consent. Thirdly, carers in Australia, and also in the UK, are anxious about the level of continuing financial and practical support following the adoption of the child (Sinclair et al., 2007). Many, possibly most, foster carers are not well off and may well not be able to afford to lose the money from the foster care allowance, even though as adoptive parents in Australia they may pick up other welfare benefits, such as Family Tax Benefit B. The $1,500 annual adoption allowance paid by the NSW Government, for example, falls well short of the amount of financial support from a foster care allowance. This is not to suggest that adoptive parents and foster carers are motivated by payments, rather that some may not be able to consider the loss of significant amounts of financial support, particularly with the uncertain care needs and outcomes for some children who have been subjected to pre-natal substance exposure and neglectful or abusive early care.

Adoption has the benefit of providing three elements of permanency, as the British Association for Adoption and Fostering pointed out in their submission to the House of Lords Select Committee on Adoption Legislation. These are: a sense of belonging and security in being connected to a family for life; the physical space called home and community, and the legal framework that secures both of these with parental responsibility. On the other hand, the research evidence is not conclusive that adoption necessarily provides for better outcomes for children than long-term stable foster care per se. As the recent review of adoption research by Thomas (2013) concluded:

Both adoption and long-term foster care can provide children with security and permanence. However, the disruption rate of foster placements is higher than that of adoptive placements, although this may be explained in terms of the children’s age at placement rather than the nature of the placement itself. Most of the children in stable placements reported a strong sense of belonging and permanence, but some in foster care expressed more uncertainty about their future relationship with carers … However, few differences were found between children’s levels of emotional and behavioural difficulties, and participation and progress in school, for those in stable long-term foster care and those in adoptive placements. (p. 31)

The two main predictors of stability in both adoptive and foster placements were the child’s age at placement and their level of emotional and behavioural disturbance. Further, research also indicates that adoptive parents need to be well prepared, given accurate information about the child, and have realistic expectations and good social support to increase the chances of stable adoptive placements and positive outcomes for both the child and the adoptive family (Quinton, 2012). Adoption is not necessarily a cheaper or

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3 In both the UK and US, the proportion of children in out-of-home care with relatives is considerably lower: 11% in England and 27% in the US. In England, relatives and kin are encouraged to apply for special guardianship orders as a way of exiting children from the care system, and in the US, unlike the UK and Australia, relatives are encouraged to adopt children placed with them (June Thoburn, personal communication, 18 June 2013). Children older than about five years in both the UK and US are unlikely to be adopted by non-related adults unless that is by their carers after the arrangements are settled and working well (Sinclair, Baker, Lee, & Gibbs, 2007). Where children have been freed for adoption and parental rights terminated in the US, many older children are in legal limbo, with no legal parents and no prospect of ever being adopted (Cashmore, 2001; Lewis, 2004). This is a completely unacceptable position to leave children in.
certain solution for children leaving the care system. The major advantage, however, is that children who have been adopted may feel a greater sense of security and do not face the prospect of “leaving care” at age 18 (or earlier). One of the major problems with long-term foster care is what comes after it—whether or not it offers continuing support and lifelong relationships. In many cases, it does not.

Shared family care
Most of the options and much of the thinking in out-of-home care rely on moving the child—removing them from their parents or returning them home, placing them with relatives, using long-term guardianship orders, or placing them in adoptive families. In addition to the need for greater flexibility in the ordering and use of these four main options, a greater array of models and innovations might be allowed and funded.

One alternative model is shared family care, which involves fostering the family rather than just the child, so the child does not need to be moved away from their family. This has been explored in the US, UK and also previously by Barnados in NSW under their Temporary Family Care model. Price and Wichterman (2003) described shared family care as involving “the placement of whole families in the homes of community members who act as mentors and work with a team of professionals to help the families achieve these goals. By simultaneously protecting children and preserving families, Shared Family Care fills a critical service gap between traditional family preservation and out-of-home care” (p. 197).

Shared family care may be useful in providing another pool of carers, using the time and skills of older parents and professional carers, without requiring them to take over the full-time care of the child. This provides another option when there is a shortage of foster carers and adoption is unlikely to be an option. These “shared care” or “mirror family” arrangements may be suitable in some cases, especially for teenage and young mothers who do not have the skills or means to care for their child and need longer term supportive relationships themselves. It could also be used to support parents when children are returned home.

There has been limited evaluation and trialling of this approach, but Barth and his colleagues have outlined several examples that have been used in various US states by private agencies, as well as an evaluation by a public agency. Barth and Price (2005) examined the benefits of a shared care program, as reported by some of its “graduates”, finding that it was “‘very good’ at locating housing and assisting them with making the transition to independent living situations. They also noted that the program helped them to budget and save money, become more stable and independent, get their children back, find employment, become better parents, maintain their recovery, get back on their feet, and start a new life” (p. 205). Sinclair et al. (2007) also described how one of their case studies in their UK study provided an outstanding example of how such an arrangement can work.

Shared family care builds on a number of principles for engaging with families in a less adversarial way, using individualised mentors in a relationship-based community approach. Barth and his colleagues (2005) do not deny the challenges of providing such a service but argue that it is a positive cost-benefit program for a limited number of parents. It could also provide a very good means of assessing the capacity of parents to provide adequate care for their children on a longer term basis, probably with considerably more validity than office-based assessment procedures.
There may be some value in trialling such approaches in Australia as another option in combination with child care for vulnerable children, along with appropriate evaluation to provide a solid evidence base. The shift from a binary “rescue-the-child” approach would call upon a different kind of foster carer who would do just that—foster care. But, if successful, it could diffuse some of the tension between “protecting” these children and providing for “permanent” relationships that maintain their identity and family ties.

References


